



DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2015-OS-0052]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DWHS E02, entitled "Freedom of Information Act Case Files" in its inventory of record systems subject to the Privacy Act of 1974, as amended. Information is being collected and maintained in this system for the purpose of processing FOIA requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the DoD in carrying out any other responsibilities under FOIA.

DATES: Comments will be accepted on or before [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* Federal Rulemaking Portal: <http://www.regulations.gov>.
Follow the instructions for submitting comments.

* Mail: Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301-9010.

Instructions: All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, D.C. 20301-1155, or by phone at (571) 372-0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address in the FOR FURTHER INFORMATION CONTACT or at the Defense Privacy and Civil Liberties Office website at <http://dpclld.defense.gov/>.

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 15, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 18, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS E02

System name:

Freedom of Information Act Case Files (January 28, 2013, 78 FR 5783).

Changes:

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System name:

Delete entry and replace with "Freedom of Information Act (FOIA) Case Files."

System location:

Delete entry and replace with "Washington Headquarters Services (WHS) records: Freedom of Information Division, Executive Services Directorate, Washington Headquarters Services, 4800 Mark Center Drive, Alexandria, VA 22350-3100.

DoD Education Activity (DoDEA) records: Department of Defense Education Activity, Freedom of Information Act Requester Service Center, Executive Services Office, 4800 Mark Center Drive, Alexandria, VA 22350-1400."

Categories of individuals covered by the system:

Delete entry and replace with "Individuals who have requested documents under the provisions of the FOIA from the Office of the Secretary of Defense/Joint Staff (OSD/JS), and the DoDEA, FOIA Requester Service Centers; individuals whose requests and/or records have been processed under the FOIA and referred by other Federal agencies; and attorneys representing individuals submitting such requests."

Categories of records in the system:

Delete entry and replace with "Records created or compiled in response to FOIA requests and administrative appeals, i.e., original requests and administrative appeals (including requesters name, mailing address, FOIA case number, date and subject of the request, with some requesters also voluntarily submitting additional information such as telephone numbers and e-mail addresses), responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and copies of requested records and records under administrative appeal."

Authority for maintenance of the system:

Delete entry and replace with "5 U.S.C. 552, Freedom of Information Act; 10 U.S.C. 113, Secretary of Defense; DoD Directive 5400.07, DoD Freedom of Information Act (FOIA) Program; DoD Regulation 5400.7-R, DoD Freedom of Information Act Program; and Administrative Instruction 108, Office of the Secretary of Defense and Joint Staff (JS) Freedom of information Act (FOIA) Program."

Purpose(s) :

Delete entry and replace with "Information is being collected and maintained for the purpose of processing FOIA requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the DoD in carrying out any other responsibilities under the FOIA."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b) (3) as follows:

To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve

disputes between persons making FOIA requests and administrative agencies.

Law Enforcement Routine Use: If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the DoD, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The DoD Blanket Routine Uses set forth at the beginning of the OSD compilation of systems of records notices may apply to this system. The complete list of DoD blanket routine uses can be found online at:

<http://dpcl.d.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx>

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Retrievability:

Delete entry and replace with "Retrieved by name of requester, subject matter, date of request, and FOIA request case number."

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System manager(s) and address:

Delete entry and replace with "WHS records: Chief, Freedom of Information Division, Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155."

DoDEA records: Chief, Department of Defense Education Activity, Freedom of Information Act Requester Service Center, Executive Services Office, 4800 Mark Center Drive, Alexandria, VA 22350-1400."

Notification procedure:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to:

WHS records: Chief, Freedom of Information Division, Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

DoDEA records: Chief, Department of Defense Education Activity, Freedom of Information Act Requester Service Center, Executive Services Office, 4800 Mark Center Drive, Alexandria, VA 22350-1400.

Signed written requests should include the requester's name, mailing address, and name and number of this system of records notice."

Record access procedures:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to:

WHS records: Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, Office of Freedom of Information, Washington Headquarters, 1155 Defense Pentagon, Washington, DC 20301-1155.

DoDEA records: Department of Defense Education Activity, Freedom of Information Act Requester Service Center, Executive Services Office, 4800 Mark Center Drive, Alexandria, VA 22350-1400.

Note: For DoDEA records, a non-custodial parent or legal guardian requesting records pertaining to his or her minor child or ward must also provide evidence of that relationship. For example, such parent or legal guardian may provide a copy of a divorce decree or a child custody or guardianship order that includes the child's name.

Requests for information should be in writing, signed, and provide evidence of the requester's identity, such as a copy of a photo ID or passport or similar document bearing the requesters signature. Requests must contain the requesters name, mailing address, FOIA case number, name and number of this system of records notice and be signed."

Contesting record procedures:

Delete entry and replace with "The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager."

Record source categories:

Delete entry and replace with "Individuals who submit initial requests and administrative appeals pursuant to the FOIA; the agency records searched in the process of responding to such requests and appeals; DoD personnel assigned to handle such requests and appeals; other agencies or entities that have referred to the DoD requests concerning DoD records or that have consulted with the DoD regarding the handling of particular requests; submitters of records; and information

from those that have provided assistance to the DoD in making FOIA access determinations."

Exemptions claimed for the system:

Delete entry and replace with "During the course of a FOIA action, exempt materials from other systems of records may, in turn, become part of the case records in this system. To the extent that copies of exempt records from those other systems of records are entered into this FOIA case record, WHS, and the DoDEA, hereby claim the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c), and (e) and published in 32 CFR part 311. For additional information contact the system manager."

Billing Code: 5001-06

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